

Notice of Allowability

Application No.

10/735,499

Examiner

Zachary C. Tucker

Applicant(s)

KONRADI ET AL.

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1624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 3 April 2007.
2. ☒ The allowed claim(s) is/are 1, 2, 5 and 7-9.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413), Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

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EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The undersigned examiner contacted applicants' counsel, Ms. Lorna Tanner, on 18 June 2007. After explaining the following proposed amendment which would place the application in allowable form, Ms. Tanner stated she would contact the applicants and convey the proposal, then inform the examiner of their decision. In a voicemail message left for the examiner later the afternoon of 18 June 2007, Ms. Tanner informed the examiner that applicants accepted the proposed amendment.

IN THE CLAIMS -

Claim 9 has been amended as shown:

9. A method for treating an inflammatory condition in a mammalian patient which condition is mediated by VLA-4 which method comprises administering to said patient a therapeutically effective amount of a pharmaceutical composition of Claim 7, wherein said inflammatory condition is selected from the group consisting of asthma, Alzheimer's disease, atherosclerosis, AIDS dementia, diabetes, inflammatory bowel disease, multiple sclerosis, rheumatoid arthritis, tissue transplantation, tumor metastasis, meningitis, encephalitis, stroke, nephritis, retinitis, atopic dermatitis, myocardial ischemia and acute leukocyte-mediated lung injury.

Claim 10 has been cancelled.

end of amendments

Response to Amendment

As requested in the correspondence from applicants filed 3 April 2007 (hereinafter "present amendment"), which is in response to the non-final Office action mailed on 8 January 2007 (hereinafter "previous Office action"), claims 1, 2 and 7 have been amended.

Requirement for Restriction

The present amendment has obviated all rejections set forth in the previous Office action (*vide infra* – "Status of Claim Rejections..."); claims 1, 2 and 5 are allowed. Thus, the claims that were formerly withdrawn are now rejoined pursuant to current PTO rejoinder practice – explained in the Requirement for Restriction mailed on 26 September 2006. Although it has been rejoined, claim 10 has been cancelled, however, by the attached Examiner's Amendment.

It is duly noted therefor that the Requirement for Restriction mailed on 26 September 2006 in this application now stands WITHDRAWN.

Status of Claim Rejections - 35 USC § 112

In the previous Office action, claims 1, 2 and 5 were rejected under 35 U.S.C. 112, first paragraph, for lack of enablement of the claimed solvates of the compounds of the present invention.

In view of the present amendment, which deletes any recitation of "solvates" from the claims, the rejection is hereby withdrawn.

Claims 1, 2 and 5 were also rejected under the second paragraph of 35 U.S.C. 112, for indefiniteness. Several limitations which were specified in the claims were deemed indefinite – "a linker atom or group," "substituted," "a carboxylic acid or derivative thereof," "an N-lower alkyl carboxamide group." Withdrawal of the rejection under 35 U.S.C. 112, second paragraph is because either the claims have been amended to more particularly

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point out and claim the invention (with respect to the definitions of L^2 and L^3), or applicants have convincingly argued that the finding of indefiniteness is not proper (with respect to the recitations of "substituted" in the claims allegedly being defined in a circular manner in the supporting specification).

The rejections under 35 U.S.C. 112, second paragraph, are hereby withdrawn.

Allowable Subject Matter

Claims 1, 2, 5 and 7-9 are allowed.

As stated in the previous Office action, the compounds according to the allowed claims are novel over and are not rendered obvious by any prior art disclosure. A summary of the closest prior art is provided in the section headed "Allowable Subject Matter" in the previous Office action.

Rejoined claim 9, as amended pursuant to the attached Examiner's Amendment, is deemed enabled by the disclosure. Prosecution of the parent application was reviewed in preparation for issuing this Notice of Allowability. Statements made by the examiner in the previous Office action that indicated only treatment of rheumatoid arthritis and osteoporosis were considered to be enabled by the disclosure are retracted.

Instant claim 9 has been amended to incorporate limitations of now-cancelled claim 10. This amendment renders instant claim 9 commensurate in scope with claim 9 of the patent (US 6,689,781) which issued from the parent application. It was found in the examination of the parent application that the conditions treated by the method of claim 9 (also claim 9 in US 6,689,781) may plausibly be treated by administering an integrin antagonist phenylalanine derivative of the present invention, and could be practiced without undue experimentation by the physician of ordinary skill.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

All Post-Allowance Correspondence concerning this application must be mailed to:
Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Or you can fax them to the Office of Patent Publications at 703-872-9306, in order to expedite the handling of such correspondence as amendments under 37 CFR 1.312; information disclosure statements, and formal drawings. Sending Post-Allowance papers to Technology Center 1600 will only cause delays in matching papers with the case.

For information concerning status of correspondence sent after receipt of the Notice of Allowance, please contact the Correspondence Branch at (703) 305-8027. The Notice of Allowance also has an insert containing contact information on other items, including Issue Fees, receipt of formal drawings and the status of the application.



ZACHARY C. TUCKER
PRIMARY EXAMINER